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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VENKATESHWAR RAO PULLELA and
STEPHEN FRANCIS SCHEID

Appeal 2009-00-9744
Application 10/625,063
Technology Center 2100

Before LANCE LEONARD BARRY, ST. JOHN COURTENAY III, and
CAROLYN D. THOMAS, *Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 2, 4-7, 10, 12, 14-17, 20, 22-25, 28, and 29. Claims 8 and 30-32 stand objected to as depending from a rejected base claim. Claims 1, 3, 9, 11, 13, 18, 19, 21, 26, and 27 are cancelled. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We reverse.

Claim 2 is illustrative:

2. A method for processing packets, the method comprising:

identifying a flow identification value based on one or more fields extracted from a packet;

performing a lookup operation in one or more memories or associative memories using a lookup value generated based on the flow identification value in order to identify a flow identification value mask, the lookup value including the flow identification value;

masking the flow identification value with the flow identification value mask to generate a masked flow identification value; and

processing the packet or another packet based on the masked flow identification value.

Ikeda

US 6,788,683

Sept. 7, 2004

Appellants appeal the following rejection:

Claims 2, 4-7, 10, 12, 14-17, 20, 22-25, 28, and 29 under 35 U.S.C. § 102(e) as anticipated by Ikeda.

ISSUE

Based upon our review of the administrative record, we have determined that the following issue is dispositive in this appeal:

Under §102, does Ikeda disclose “masking the flow identification value with the flow identification value mask to generate a masked flow identification value?” (Claim 2).

FACTUAL FINDINGS (FF)

1. Ikeda discloses the connection (received VPI/VCI) 21 of a Virtual Path Identifier (VPI) and a Virtual Channel Identifier (VCI) described in the header of an ATM cell is extracted as input logical link number. (Col. 7 ll. 32-34 and 37-41; Fig. 1).
2. Ikeda discloses that the “retrieval flag table 3 outputs a retrieval flag 24 corresponding to the retrieval flag 24 corresponding to the received VPI/VCI 21 as an input logical link number extracted by the cell receiving section 1.” (Col. 7, ll. 51-54; Fig. 1).
3. Ikeda discloses that the retrieval key mask section 4 masks each field of the header of the received IP packet 22 with the retrieval flag 24 and creates the post-mask retrieval key 26. (Col. 8, ll. 12-14; Fig. 3).

ANALYSIS

Appellants argue that Ikeda does not disclose “masking the flow identification value with the flow identification value mask to generate a masked flow identification value,” as recited in claim 2. (App. Br. 7 *et seq.*).

We agree.

Based upon our review of the record, we agree with Appellants that claim 2 requires that: 1) the flow identification value is used to identify a flow identification value mask (i.e., by using a lookup value based on the flow identification value to perform a lookup operation that identifies the flow identification value mask); and 2), the flow identification value mask is used to mask the flow identification value. (*See* App. Br. 12)

The Examiner contends that the packet header is the flow identifying value, and the packet header comprises fields such as VPI/VCI and the flow retrieval key 25. (Ans. 11). The Examiner states that “both of these fields” correspond to the claimed “flow identifying value” referring to both the VPI/VCI and flow retrieval key 25. (*Id.*). The Examiner further contends that the VPI/VCI is used to determine the mask by retrieval of a flag that is used to mask the flow identifying value/flow retrieval key. (Ans. 11 citing Figs. 7 and 9 of Ikeda).

However, we agree with Appellants that Ikeda’s VPI/VCI (virtual path and channel identifiers) that the Examiner corresponds to the claimed “flow identification value” are not masked as required by the claim language for essentially the same reasons argued by Appellants in the Briefs.

Moreover, the Examiner’s findings are undermined because the Examiner reads the claimed “flow identification value” on two discrete values in the context of an anticipation rejection, i.e., Ikeda’s RECEIVED

VPI/VCI 21 and also FLOW RETRIEVAL KEY 25, as shown in Ikeda's Fig. 1. (*See Ans. 11*). We agree with Appellants that either reading fails to anticipate the express language of claim 2.

As noted above, Ikeda discloses that the VPI/VCI 21 identified by the Examiner as the flow identification value, is *extracted* from the received ATM cell. (FF 1). Ikeda further discloses that the retrieval flag table 3 stores a retrieval flag, and outputs a retrieval flag 24 *corresponding to the received VPI/VCI 21*. (FF 2). Therefore, Ikeda at best discloses that the VPI/VCI 21 is used to identify (i.e., lookup) the retrieval flag 24 that is provided as one of two inputs to RETRIEVAL KEY MASK SECTION 4. (Ikeda, Fig. 1)(FF 3). To meet the language of claim 2, Ikeda VPI/VCI, must in turn be masked by the identified mask. However, as argued by Appellants (Reply Br. 4) and as shown in Ikeda's Figs. 1, 7, and 9, we find that this is not the case.

While we find Appellants' "teaching away" argument (App. Br. 8) misplaced in the context of an anticipation rejection,² we are nevertheless in agreement with Appellants that there is no support in Ikeda that the RECEIVED VPI/VCI 21 (Fig. 1) is used to both determine the mask, and is masked by the determined mask. (App. Br. 12, ll. 1-3).

In the alternative, if the Examiner is reading the claimed flow identification value on Ikeda's FLOW RETRIEVAL KEY 25 (Fig. 1), we agree with Appellants that for "a proper rejection, the same *flow identification* value found in FLOW RETRIEVAL KEY 25 would need to be applied to RETRIEVAL FLAG TABLE 3 to cause the selection of the

² "Teaching away is irrelevant to anticipation." *Seachange Int'l, Inc., v. C-Cor, Inc.*, 413 F.3d 1361, 1380 (Fed. Cir. 2005) (citations omitted).

mask. That way, the flow identification value would be used to determine the mask and would be masked by this determined mask as required by the limitations claim 2.” (App. Br. 12). We are in accord with Appellants that Ikeda is silent regarding such a teaching.

We note that “absence from the reference of any claimed element negates anticipation.” *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986) (citation omitted).

Accordingly, we reverse the Examiner’s anticipation rejection of independent claim 2, and also independent claims 10, 12, and 20 that recite the aforementioned disputed limitation in commensurate form. Because we have reversed the Examiner’s rejection of each independent claim on appeal, we also reverse the Examiner’s anticipation rejection for each dependent claim on appeal.

DECISION

We reverse the Examiner’s § 102 rejection of all claims on appeal.

ORDER

REVERSED

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